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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/704,028	11/01/2000	Gary G. Lenihan	060545/0456	2436

7590 06/20/2002

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EXAMINER

MILLER, BENA B

ART UNIT	PAPER NUMBER
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3712

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/704,028

Applicant(s)

LENIHAN, GARY G.

Examiner

Bena Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9 and 11-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 and 11-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7 and 8 are finally rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding the claims, it is unclear as to what is all of the structure encompassed by the phrase "configured to". In other words, how does the phrase "configured to" further structurally limit claim 7.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 6-9, and 11-14, 16 and 17 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Klein.

Regarding claim 1, Klein teaches in figures 1-11 a toy kitchen comprising a main unit and a repositionable island both seen in a marked up copy of figure 9. It can also be seen in the marked up copy of figure 9 the island removably coupled, using hook and loop fastener (V_1 and V_2) located thereon, to the main unit via an auxiliary cabinet located between the two elements.

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Regarding claim 2, Klein further teaches in figures 9-11 that the island is removably attached to the main unit via other modules in different combinations (see col. 1, paragraph 7). In figure 10, Klein teaches at least one of three positions of figures 9-11.

Regarding claim 3, Klein teaches a main unit comprising a stove top (F, col. 2, paragraph 3) and an island comprising a cabinet (A₁, col. 1, paragraph 9).

Regarding claim 6, Klein further teaches in figure 11 the island removably connected to the right side of the main unit to form a single plane continuous play area.

Regarding claims 7 and 8, in as much applicant claimed the toy kitchen, the examiner takes the position that Klein inherently teaches the functional recitation of the claimed invention.

Regarding claim 9, Klein further teaches further teaches in the marked up copy of figure 1 a front side and rear side, an opening defined within the main unit. The examiner considers the ventilator (D) as the window positioned at the opening.

Regarding claim 11, Klein further teaches a cabinet (A₁) as seen in figure 2.

Regarding claim 12, Klein teaches in figures 1-11 a repositionable toy kitchen comprising a first unit having a first vertical longitudinal plane and at least one removable and repositionable second unit having a second vertical longitudinal plane both seen in figure 9 where the first plane is angled with respect to the second plane. Further Klein teaches in figure 11 a second position in figure 11 where the first and second planes are coplanar.

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Regarding claim 13, Klein further teaches in marked copy figure 9 a first and second play area bounded by one side of the first unit and the second unit forming a continuous play area.

Regarding claim 14, see claim 1 as set forth above.

Regarding claim 16, see claim 3 as set forth above.

Regarding claim 17, see claim 2 as set forth above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5 and 15 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Klein.

Regarding claim 5, Klein teaches in the figures most of the elements of the claimed invention. However, Klein may not teach the removable island connected to a front surface of the main unit. Klein teaches in figure 8 an element attached to a front side of the main unit forming at least two separate play areas. It would have been obvious to one having ordinary skill in the art to apply the removable island to the front side of the main unit of Klein for the purpose of combining the elements in different configurations.

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Regarding claim 15, Klein may not teach a shelf when in positioned in a second position having a depth of approximately 18 inches. Klein does teach that ovens, dishwashers, microwaves (col.1, paragraph 13) are positioned on the different modulars. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a shelf having a depth of 18 inches to the toy kitchen of Klein for the purpose of allowing a child to place toys therein.

Response to Arguments

Applicant's arguments with respect to claims 1-3, 6-9 and 11-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

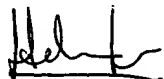
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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643.

The examiner can normally be reached on Monday-Friday.

bbm
June 14, 2002


Jacob K. Ackun
Primary Examiner